

**Montana Department of
ENVIRONMENTAL QUALITY**
1261577 - R8 SDMS

Brian Schweitzer, Governor

P.O. Box 200901 • Helena, MT 59620-0901 • (406) 444-2544 • www.deq.mt.gov

September 5, 2008

Carol Campbell
Assistant Regional Administrator for
Ecosystems Protection & Remediation
US EPA Region 8
80C-EISC
1595 Wynkoop St
Denver, CO 80202-1129

Dear Ms. Campbell:

Yesterday afternoon, September 4, 2008, state and federal officials held a conference call to discuss issues related to stream bank work in three Libby, Montana area creeks. Participating on the call were representatives of the US Fish and Wildlife Service, the Montana and regional offices of the Environmental Protection Agency, the Governor's Office, the Department of Fish, Wildlife and Parks (FWP) and the Department of Environmental Quality (DEQ). The specific impetus for the call was the proposed use of shot crete to stabilize and in some cases encase asbestos-laden rock.

Several state-level concerns were discussed during the call. Concerns over the composition of the shot crete were allayed based on EPA assurance that ingredients of this Portland cement product were commonly used and accepted. Also, it was agreed that the areas in question are not currently spawning grounds for bull trout.

FWP also had concerns about encasing asbestos in the vicinity of existing highway bridges. FWP is encouraging the extension of these bridges due to fish habitat concerns. Encasing asbestos would very likely preclude that possibility. EPA agreed with these concerns, and committed verbally to removal of contaminated material in the area of the highway bridges and replacement with clean riprap rather than encasing the existing material. We appreciate the recognition of this concern, and respectfully request confirmation.

The major state-level concerns remaining include the permanence of the shot crete, future impacts and liability in case of failure, and in general encasement rather than removal of asbestos laden material. The streams at issue are prone to high-water events; rain-on-snow flash runoffs are common. EPA maintains the shot crete and additional rip-rap should last 50 years. We believe this likely is optimistic. Regardless, there will be need for additional work at some point in the foreseeable future. We need a long-term solution and in addition cannot put the state in a position of assuming liability for cleanup should this approach fail.

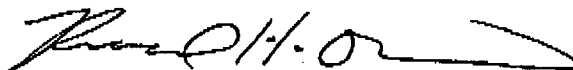
Carol Campbell
September 5, 2008
Page 2 of 2

The federal officials participating on the call indicated that this work is related to structural integrity of an Army Corps of Engineers (Corps) levee. They further stated that the Corps historically has been cooperative and responsible in area work and that it was reasonable to assume the Corps would assume the responsibility to maintain these stream banks. However, since the Corps did not participate in the call, no one could speak directly on its behalf. It is unclear to us whether the Corps now assumes maintenance responsibility in the levee areas where the shot crete is to be used, and it is unclear if that responsibility would continue in the event of failure of the shot crete. In order to support the proposed strategy, the State of Montana requires confirmation that it will not be responsible for maintenance of the encased material and rip-rap and that it will not be liable for cleanup should this strategy fail. We respectfully request your agency coordinate among the federal entities involved and provide us that written confirmation in order to proceed. We understand work is scheduled to begin next week, so your timely response is appreciated.

In general, we don't consider encasing contaminated material to be a permanent solution. It may be short-term or even intermediate-term, but it is not a final solution to the problem. For this reason, we encourage wherever possible that removal of contaminated material be maximized, and encasement minimized. We understand this is being done as an emergency removal action and thus request that EPA assess the long-term permanence of this response during the site remedial investigation.

Thank you in advance for your assistance in this matter.

Sincerely,



Richard H. Oppen
Director

C: Jeff Hagener, Director, FWP
Sandi Olsen, DEQ
Catherine LeCours, DEQ
John Wardell, EPA